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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

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 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

FOURTH AGE LIMITED, a United Kingdom corporation; PRISCILLA MARY ANNE REUEL TOLKIEN, as TRUSTEE OF THE TOLKIEN TRUST, a United Kingdom Charitable Trust; THE J.R.R. TOLKIEN ESTATE LIMITED, a United Kingdom corporation; HARPERCOLLINS PUBLISHERS, LTD., a United Kingdom corporation; UNWIN HYMAN LTD., a United Kingdom corporation; and GEORGE ALLEN & UNWIN (PUBLISHERS) LTD., a United Kingdom corporation,

Plaintiffs,

v.

WARNER BROS. DIGITAL DISTRIBUTION, INC., a division of WARNER BROS. HOME ENTERTAINMENT, INC., a Delaware corporation; WARNER BROS. ENTERTAINMENT, INC., a Delaware corporation, as successor-in-interest to New Line Cinema Corp.; WARNER BROS. CONSUMER PRODUCTS, INC., a Delaware corporation; WARNER BROS. INTERACTIVE ENTERTAINMENT, INC., a division of WARNER BROS. HOME ENTERTAINMENT, INC., a Delaware corporation; NEW LINE PRODUCTIONS, INC., a California corporation; THE SAUL ZAENTZ COMPANY d/b/a Middle-earth Enterprises, a Delaware corporation; and DOES 1-10, inclusive,

Defendants.

Case No. **CV 12 9912-ABC**
 COMPLAINT FOR: (SH)

(1) COPYRIGHT INFRINGEMENT;

(2) BREACH OF CONTRACT

(3) DECLARATORY RELIEF – Gambling Games and Downloadable Games; and

(4) DECLARATORY RELIEF – Trademarks, Service Marks and Services Licensing

REQUEST FOR JURY TRIAL

GREENBERG GLUSKER FIELDS CLAMAN
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1 Plaintiffs Fourth Age Limited, a United Kingdom corporation; Priscilla Mary
 2 Anne Reuel Tolkien, as Trustee of The Tolkien Trust, a United Kingdom Charitable
 3 Trust; The J.R.R. Tolkien Estate Limited, a United Kingdom corporation;
 4 HarperCollins Publishers, Ltd., a United Kingdom corporation; Unwin Hyman Ltd.,
 5 a United Kingdom corporation; and George Allen & Unwin (Publishers) Limited., a
 6 United Kingdom corporation (collectively, "plaintiffs") allege as follows:

7 JURISDICTION AND VENUE

8 1. This action arises under the Declaratory Judgment Act, 28 U.S.C. §
 9 2201, and the United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* Jurisdiction is
 10 based upon 28 U.S.C. §§ 1331 and 1338(a), and the principles of pendent
 11 jurisdiction pursuant to 28 U.S.C. § 1367(a).

12 2. Venue in this Judicial District is proper under 28 U.S.C. §§ 1391(b)
 13 and (c), and § 1400(a) because a substantial part of the events giving rise to the
 14 plaintiffs' claims occurred in this Judicial District, one or more defendants resides
 15 and may be found in this District, and because defendants are subject to personal
 16 jurisdiction in this District by virtue of their residing, transacting and/or soliciting
 17 business in this District.

18 INTRODUCTION

19 3. This case involves merchandising rights in and to *The Lord of the*
 20 *Rings* and *The Hobbit*. Professor J.R.R. Tolkien's seminal work "*The Lord of the*
 21 *Rings*" is one of the most esteemed literary properties of all time. This epic story is
 22 widely considered among the greatest literary works of twentieth century
 23 imaginative fiction, and is reported to be the second most-read book in the United
 24 States after the Bible. Professor Tolkien's *The Hobbit* is equally beloved and
 25 revered as a treasured literary classic.

26 4. From 2000 to 2003 (and pursuant to a limited license obtained by its
 27 predecessors-in-interest, one of which is defendant The Saul Zaentz Company),
 28 defendant Warner Bros. Entertainment, Inc., through its subsidiary, New Line

1 Cinema and other affiliated companies, produced and distributed three motion
2 pictures (the “Films”) based on *The Lord of the Rings*. Defendants also obtained
3 film rights to *The Hobbit*, and three motion pictures based on *The Hobbit* are
4 scheduled to be released in December 2012, December 2013 and July 2014.

5 5. When plaintiffs’ predecessors-in-interest sold the film rights to *The*
6 *Lord of the Rings* and *The Hobbit* in 1969, they also granted defendants’
7 predecessors-in-interest limited merchandising rights. Specifically, defendants’
8 predecessors-in-interest obtained the **limited** right to use the characters, places,
9 objects and events referred to in *The Lord of the Rings* and *The Hobbit* “solely and
10 only upon and in connection with the manufacture, sale and distribution of ... any
11 and all **articles of tangible personal** property, other than novels, paperbacks and
12 other printed published matter...” (emphasis added). The original contracting
13 parties thus contemplated a limited grant of the right to sell consumer products of
14 the type regularly merchandised at the time (such as figurines, tableware, stationery
15 items, clothing, and the like). They did not include any grant of exploitations such
16 as electronic or digital rights, rights in media yet to be devised or other intangibles
17 such as rights in services. To emphasize the limited nature of the grant, plaintiffs’
18 predecessors-in-interest specifically reserved “the right to utilize and/or dispose of
19 all rights and/or interests not herein specifically granted.”

20 6. The sale of legitimate Tolkien-related merchandise has, over the years,
21 generated millions of dollars in revenue. Goods which incorporate elements from
22 Tolkien’s *The Lord of the Rings* and *The Hobbit* books continue to be hugely in
23 demand world-wide.

24 7. However, in recent years, and particularly in the aftermath of the
25 unprecedented financial and critical success of the Films, defendants have, with
26 increasing boldness, engaged in a continuing and escalating pattern of usurping
27 rights to which they are not entitled — rights which belong exclusively to plaintiffs.
28 For example, although their limited merchandising license only gives them the right

1 to sell *tangible* merchandise, defendants have developed, licensed and/or sold (and
2 continue to develop, license and/or sell) downloadable video games based on *The*
3 *Lord of the Rings* and *The Hobbit*, available only by downloading and/or access via
4 the Internet, via mobile apps, tablet apps or other similar digital distribution
5 channels, or through other online interconnectivity such as Facebook. There is no
6 physical or tangible item of merchandise sold to the consumer with these games.
7 Defendants also have asserted and continue to assert that they have rights relating to
8 a wide variety of goods and services beyond “articles of tangible personal property”
9 and have registered trademarks and/or filed “intent to use” applications in those
10 same categories, including without limitation hotels, restaurants, travel agencies,
11 ringtones, online/downloadable games and housing developments — categories of
12 rights which plainly have not been granted to them.

13 8. To make matters worse, plaintiffs discovered that defendants have, in
14 excess of the limited rights granted to them, begun licensing the production and
15 distribution of gambling games (both over the Internet and in brick-and-mortar
16 casinos) featuring characters and story elements from *The Lord of the Rings*.
17 Gambling constitutes a further category of rights which have never been granted to
18 defendants (and which plaintiffs themselves would intend never to exploit). Not
19 only does the production of gambling games patently exceed the scope of
20 defendants’ rights, but this infringing conduct has outraged Tolkien’s devoted fan
21 base, causing irreparable harm to Tolkien’s legacy and reputation and the valuable
22 goodwill generated by his works. Fans have publicly expressed confusion and
23 consternation at seeing *The Lord of the Rings* associated with the morally-
24 questionable (and decidedly non-literary) world of online and casino gambling.
25 Rampant are comments such as “I actually feel angry about this...this insults
26 Tolkien...[and] is a nasty, greedy, ugly act...Whoever is responsible should be
27 ashamed of themselves,” and “if this isn’t prostituting art, I don’t know what is.”
28 The damage to the goodwill that plaintiffs have painstakingly cultivated over the

1 decades is patent.

2 9. Plaintiffs never agreed to grant defendants unlimited and infinite rights
3 to exploit *The Lord of the Rings* or *The Hobbit* generally and in perpetuity.
4 Plaintiffs did not bargain for (nor did they obtain any purchase price for)
5 defendants' progressive usurpation of plaintiffs' valuable intellectual property
6 rights.

7 10. Plaintiffs have done everything in their power to appeal to defendants
8 to stop this unlawful exploitation without resort to litigation. In good faith,
9 plaintiffs engaged in lengthy settlement discussions with defendants, all to no avail.
10 Defendants have made it abundantly clear that they have no intention of ceasing
11 their infringing and wrongful conduct. To the contrary, plaintiffs believe that
12 defendants intend to pursue similar extra-contractual licensing activity in the future,
13 both with respect to *The Lord of the Rings* and *The Hobbit*. If left unchecked,
14 defendants will unilaterally convert their narrow contractual grant of rights into an
15 unlimited entitlement to exploit *The Lord of the Rings* and *The Hobbit* in any way
16 they desire, for their own financial enrichment and with cynical disregard of the
17 categories of rights that have been retained by plaintiffs.

18 11. Plaintiffs have no choice but to seek relief in the courts.

19 THE PARTIES

20 12. Plaintiff Fourth Age Limited ("Fourth Age") is a corporation created
21 and existing under the laws of the United Kingdom.

22 13. The Tolkien Trust, constituted by a deed of trust dated April 1, 1977,
23 is a registered charity in the United Kingdom that benefits a wide range of
24 charitable causes throughout the world, which have included Save the Children
25 Fund, The Darfur Appeal, Asia Earthquake Appeal, The Niger Appeal, The
26 National Campaign for Homeless People (Great Britain), Breakthrough Breast
27 Cancer, Alzheimer's Society, Foundation for Children with Leukemia, National
28 Library for the Blind, Rebuilding Sri Lanka, World Cancer Research Foundation,

1 Climate Outreach Information Network, Friends of the Earth Trust, UNICEF,
2 World Wildlife Foundation, The Poetry Trust, Performing Rights Society and many
3 other worthy causes.

4 14. Plaintiff Priscilla Mary Anne Reuel Tolkien is a Trustee of The
5 Tolkien Trust and she is a citizen and resident of the United Kingdom.

6 15. Plaintiffs The Tolkien Trust and Fourth Age, and each of them, are
7 successors to J.R.R. Tolkien with respect to his copyright interests in *The Lord of*
8 *the Rings* literary work.

9 16. Plaintiff The J.R.R. Tolkien Estate Limited is a corporation created
10 and existing under the laws of the United Kingdom. The J.R.R. Tolkien Estate
11 Limited is the successor to J.R.R. Tolkien with respect to his copyright interests in
12 *The Hobbit* literary work.

13 17. Plaintiff HarperCollins Publishers, Ltd. ("HarperCollins") is a
14 corporation created and existing under the laws of the United Kingdom.
15 HarperCollins is the worldwide exclusive licensee of the book publishing rights in
16 *The Lord of the Rings* and *The Hobbit*. Plaintiff Unwin Hyman Ltd. is a
17 corporation created and existing under the laws of the United Kingdom and is a
18 wholly owned subsidiary of HarperCollins. Plaintiff George Allen & Unwin
19 (Publishers) Ltd. is the successor, by way of name change, of George Allen &
20 Unwin Ltd. and is a wholly owned subsidiary of Unwin Hyman Ltd. Certain rights
21 to proceeds from the July 8, 1969 contract between George Allen & Unwin
22 (Publishers) Ltd. and United Artists, described below, were assigned to Unwin
23 Hyman Ltd. and HarperCollins Publishers, Ltd.

24 18. Plaintiffs are informed and believe, and based thereon allege that
25 defendant Warner Bros. Digital Distribution, Inc. ("WB Digital Distribution") is a
26 division of Warner Bros. Home Entertainment, Inc., a corporation organized and
27 existing under the laws of the State of Delaware, doing business in Los Angeles,
28 California.

1 19. Plaintiffs are informed and believe, and based thereon allege that
2 defendant Warner Bros. Interactive Entertainment, Inc. ("WB Interactive") is a
3 division of Warner Bros. Home Entertainment, Inc., a corporation organized and
4 existing under the laws of the State of Delaware, doing business in Los Angeles,
5 California.

6 20. Plaintiffs are informed and believe, and based thereon allege that
7 defendant Warner Bros. Entertainment, Inc. ("Warner Bros. Entertainment") is the
8 parent company of WB Digital Distribution and WB Interactive, and is organized
9 and existing under the laws of the State of Delaware, doing business in Los
10 Angeles, California. Plaintiffs are further informed and believe, and based thereon
11 allege that Warner Bros. Entertainment, including its subsidiaries, WB Digital
12 Distribution and WB Interactive, is an entertainment conglomerate, engaged in the
13 business of, *inter alia*, the development, production and distribution of motion
14 pictures, television programming, and digital content, as well as various licensing
15 activities in connection therewith. Plaintiffs are further informed and believe, and
16 based thereon allege that Warner Bros. Entertainment is the successor in interest to
17 New Line Cinema Corporation ("New Line Cinema"), a surrendered Delaware
18 corporation, previously engaged in the business of developing, producing and
19 distributing motion pictures.

20 21. Plaintiffs are informed and believe, and based thereon allege, that
21 defendant Warner Bros. Consumer Products, Inc. ("WBCP") is a corporation
22 organized and existing under the laws of the State of Delaware, doing business in
23 Los Angeles, California. Plaintiffs are further informed and believe, and based
24 thereon allege, that WBCP is a wholly-owned subsidiary of Warner Bros.
25 Entertainment, engaged in the business of, *inter alia*, licensing merchandising
26 rights based on motion pictures produced by Warner Bros. Entertainment.

27 22. Plaintiffs are informed and believe, and based thereon allege, that
28 defendant New Line Productions, Inc. ("New Line Productions") is a corporation

1 organized and existing under the laws of the State of California, with its principal
2 place of business in Los Angeles, California. Plaintiffs are further informed and
3 believe, and based thereon allege that New Line Productions was a wholly owned
4 subsidiary of New Line Cinema prior to its surrender, and New Line Productions is
5 currently a wholly owned subsidiary of Warner Bros. Entertainment, engaged in the
6 business of, *inter alia*, the development, production and distribution of motion
7 pictures, as well as licensing activities in connection therewith. New Line
8 Productions, New Line Cinema, WB Digital Distribution, WB Interactive, WBCP
9 and Warner Bros. Entertainment are collectively referred to herein as "Warner
10 Bros."

11 23. Plaintiffs are informed and believe, and based thereon allege, that
12 defendant The Saul Zaentz Company d/b/a Middle-earth Enterprises ("Zaentz") is a
13 corporation organized and existing under the laws of the State of Delaware, with its
14 principal place of business in Berkeley, California, doing business in Los Angeles,
15 California. Plaintiffs are further informed and believe, and based thereon allege
16 that Zaentz engages in the business of, *inter alia*, the development and production
17 of motion pictures, as well as licensing activities in connection therewith.

18 24. The true names and capacities of the defendants named herein as
19 DOES 1 through 10, inclusive, whether individual, corporate, associate or
20 otherwise, are presently unknown to plaintiffs, who therefore sue said defendants
21 by such fictitious names. Plaintiffs will seek leave to amend their complaint to
22 allege the true names and capacities of said defendants when plaintiffs have
23 ascertained the same. On information and belief, plaintiffs allege that each of the
24 fictitiously named defendants was responsible in some manner for the acts and
25 omissions alleged herein and are liable to plaintiffs therefor.

26 25. Plaintiffs are informed and believe, and based thereon allege that in
27 doing the acts and things hereinafter alleged, each defendant acted individually for
28 himself and itself, and as the agent, employee, and/or representative of each of the

1 other defendants and, in doing the things hereinafter alleged, each was at all times
 2 acting within the course and scope of said agency, representation or employment
 3 relationship with the advance knowledge, acquiescence or subsequent ratification of
 4 each and every other defendant.

5 6 ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

7 The Literary Works.

8 26. J.R.R. Tolkien (1892 – 1973) was a writer, poet, philologist and
 9 University professor at Oxford University. He is the world-famous author and
 10 original copyright owner of the fantasy classics “The Hobbit: or There And Back
 11 Again” (“The Hobbit”) and the three volume work known as “The Lord of the
 12 Rings,” which consists of “The Fellowship of the Ring,” “The Two Towers” and
 13 “The Return of the King” (collectively, “*The Lord of the Rings*”).

14 27. Professor Tolkien’s literary works have been translated into numerous
 15 different languages and are widely considered to be among the most popular and
 16 influential works in 20th-century literature. *The Lord of the Rings* has repeatedly
 17 been voted the “Book of the 20th Century” by various publications worldwide.
 18 Since their first publication more than 50 years ago, *The Hobbit* and each volume of
 19 *The Lord of the Rings* have been among the best-selling fictional works of all time.

20 28. *The Lord of the Rings* and *The Hobbit* are set in Professor Tolkien’s
 21 fictional world of Middle-earth, inhabited by his own imaginary characters and
 22 populated by his own imaginary places, scenes, elements, situations and events.
 23 The language and lore of Middle-earth, and the fantasy-realm Professor Tolkien
 24 created in these literary works, have delighted readers around the world and have
 25 permeated our popular culture. The international following generated by Professor
 26 Tolkien’s literary works have helped make *The Lord of the Rings* and *The Hobbit*,
 27 and the characters, places, scenes, elements, situations and events depicted therein
 28 distinctive and famous throughout the world.

29. Plaintiffs have complied in all respects with the copyright laws of the United States, and all other laws governing copyright, and, as Professor Tolkien's heirs and assigns, are the owners of the exclusive rights and privileges in and to the copyrights in *The Lord of the Rings* and *The Hobbit*, as well as in and to numerous *Lord of the Rings* and *Hobbit*-related copyrights.

30. Plaintiffs own the rights, subject to certain licenses, to exploit trademarks and service marks based on *The Lord of the Rings* and *The Hobbit*.

31. As a result of plaintiffs' dedicated efforts and the phenomenal success of Professor Tolkien's literary works, *The Lord of the Rings* and *The Hobbit* (and associated and proprietary characters, elements and marks) are among the most famous and valuable marks in the world. Plaintiffs have established an excellent reputation and developed highly valuable goodwill in *The Lord of the Rings* and *The Hobbit* (and associated characters, elements and marks) and in the products, goods and services featuring them.

Zaentz's Acquisition of Film and Limited Merchandising Rights in *The Lord of the Rings* and *The Hobbit*.

32. Plaintiffs' predecessors-in-interest, Sassoon Trustee and Executor Corporation, Ltd. ("Sassoon") and George Allen & Unwin, Ltd. ("GAU"), and Zaentz's and Warner Bros.' predecessor-in-interest, United Artists Corporation ("United Artists"), entered into a pair of contemporaneously written contracts, dated as of July 8, 1969 regarding, *inter alia*, certain motion picture rights in *The Lord of the Rings* and *The Hobbit*. One of these agreements was between Sassoon and United Artists (the "1969 Sassoon Agreement") and the other was between GAU and United Artists (the "1969 GAU Agreement"). These two agreements are collectively referred to herein as the "1969 Agreements." Each of the 1969 Agreements states that it is to be governed by New York law.

33. Under the 1969 Agreements, United Artists obtained, *inter alia*, the right to make films based on *The Lord of the Rings* and agreed, among other things,

1 to pay GAU and Sassoon a total of 7.5% participation in defined "Gross Receipts"
2 from any films based upon *The Lord of the Rings*.

3 34. Further, under Schedule D to the 1969 Agreements (subsequently
4 executed by the parties), United Artists additionally obtained certain *limited*
5 merchandising rights in connection with *The Lord of the Rings* and *The Hobbit*.
6 Schedule D to the 1969 GAU Agreement (the "GAU Schedule D") and Schedule D
7 to the 1969 Sassoon Agreement (the "Sassoon Schedule D") are collectively
8 referred to herein as the "Merchandising Agreements." The Tolkien Trust and
9 Fourth Age are the successors-in-interest to Sassoon under the 1969 Sassoon
10 Agreement and Sassoon Schedule D. HarperCollins is the successor-in-interest to
11 GAU under the 1969 GAU Agreement and GAU Schedule D.

12 35. The crux of the parties' agreement with respect to merchandising was
13 that United Artists obtained the limited right to use the characters, places, objects
14 and events referred to in *The Lord of the Rings*, "***solely and only upon and in***
15 ***connection with*** the manufacture, sale and distribution of...any and all ***articles of***
16 ***tangible personal property***, other than novels, paperbacks and other printed
17 published matter..."

18 36. To underscore the limited nature of the rights being conveyed, the
19 1969 Agreements contain a broad and open-ended reservation of rights clause, by
20 which plaintiffs' predecessors-in-interest expressly reserved "the right to utilize
21 and/or dispose of ***all rights*** and/or interests ***not herein specifically granted...***"

22 37. Paragraph 15 of the Merchandising Agreements additionally contains a
23 "No Waiver, etc..." clause, which states, *inter alia*, "None of the terms of this
24 agreement can be waived or modified except by an express agreement in writing
25 signed by both parties."

26 38. The Merchandising Agreements were amended on or about October
27 20, 1975 (the "1975 Amendment"). The 1975 Amendment further clarifies the
28 scope of the limited merchandising rights granted under the 1969 Agreements and

1 was intended to “provide general guidance in determining the rights in other such
2 articles as to which questions may arise in the future.” In providing such guidance,
3 the 1975 Amendment lays out several categories of products as illustrative
4 examples of the types of “articles of tangible personal property” the parties
5 intended to be included in the limited 1969 merchandising rights grant (such as
6 drawing books, posters, stationery items, figurines, calendars and similar items
7 using primarily artwork from the films and not the printed word or any other
8 artwork). The articles specifically referenced in these agreements make clear that
9 the parties always intended that the merchandising rights grant encompass only
10 items of tangible property of the type sold to consumers.

11 39. Thereafter, pursuant to a written agreement and assignment dated as of
12 December 2, 1976 between United Artists and Zaentz, Zaentz acquired from United
13 Artists, all of United Artists’ right, title and interest in and to The Lord of the Rings
14 under and pursuant to the 1969 Agreements and the Merchandising Agreements
15 (the “Zaentz/UA Agreement”).

16 40. In or about November 16, 1981, the Merchandising Agreements were
17 further amended (the “1981 Amendment”). Collectively, the 1969 Agreements, the
18 Merchandising Agreements, the 1975 Amendment and the 1981 Amendment shall
19 be referred to herein as the “Merchandising License.”

20 **Warner Bros.’ Acquisition of Limited Film-Related Merchandising Rights**
21 **under the Merchandising License.**

22 41. Thereafter, through a series of written agreements, New Line Cinema
23 succeeded to many of the rights, interests and obligations of United Artists and
24 Zaentz under the 1969 Agreements and the Merchandising License.

25 42. New Line Cinema ultimately produced and distributed three films
26 based on *The Lord of the Rings*: “The Lord of the Rings: The Fellowship of the
27 Ring” (“Film 1”), “The Lord of the Rings: The Two Towers” (“Film 2”), and “The
28 Lord of the Rings: The Return of the King” (“Film 3”) (collectively, the “Films”).

1 The three Films, released for theatrical distribution in 2001, 2002 and 2003,
2 respectively, met with virtually unprecedented critical and financial success.

3 43. The Films generated a reported \$6 billion in world wide revenue and
4 which, plaintiffs are informed and believe, and based thereon allege, earned billions
5 of dollars for New Line Cinema and its parent company, Warner Bros.
6 Entertainment. Plaintiffs are further informed and believe, and based thereon
7 allege, that the Films have additionally earned Zaentz and Warner Bros. millions of
8 dollars in legitimate merchandising licensing revenue.

9 44. Plaintiffs are informed and believe, and based thereon allege, that in or
10 about 2008, New Line Cinema and New Line Productions merged with and/or
11 became wholly owned subsidiaries of Warner Bros. Entertainment.

12 **The Unlawful Online Slots.**

13 45. In or about September 2010, plaintiffs, for the first time, learned of an
14 online slot game known as the "Lord of the Rings: Fellowship of the Ring: Online
15 Slot Game," which prominently features and uses characters, events, images and
16 story elements from the first volume of Professor Tolkien's *The Lord of the Rings*
17 and from Film 1 (the "Online Slots"). The Online Slots are a digital simulation of
18 an actual, physical slot machine, and (in various jurisdictions of the world) allow
19 players to gamble real money. Plaintiffs learned of the Online Slots when one of
20 their attorneys by chance received a "spam" email advertising an "Online Casino
21 Palace" featuring the Online Slots. Plaintiffs are informed and believe, and based
22 thereon allege, that the email received by plaintiffs' counsel was merely one out of
23 millions in a widespread spam email campaign used to advertise the Online Slots.

24 46. Upon further investigation, Plaintiffs are informed and believe, and
25 based thereon allege, that defendants have purported to license, and continue to
26 provide content and approvals in connection with, the development, distribution
27 and marketing of the Online Slots.

28 47. Plaintiffs are informed and believe, and based thereon allege, that due

to the success of the Online Slots, defendants may currently be working to develop similar virtual gambling games based upon the two subsequent volumes in *The Lord of the Rings* (*The Two Towers* and *The Return of the King*) and *The Hobbit*.

The Unlawful Casino Slot Machine.

48. Plaintiffs are informed and believe, and based thereon allege, that defendants also have purported to license, and continue to provide content and approvals in connection with, a *Lord of the Rings*-themed casino slot machine, featuring the characters, events and imagery from the work (the "Casino Slot Machine"). Plaintiffs are informed and believe, and based thereon allege, that defendants purported to license the right to develop, manufacture and distribute the Casino Slot Machine to WMS Gaming, Inc., which, in turn, has licensed and distributed, and continues to manufacture, license and distribute the Casino Slot Machine to casinos across the world, including in California.

49. Plaintiffs are informed and believe, and based thereon allege, that one feature of the Casino Slot Machine allows players to continue to view and interact with the content featured on the Casino Slot Machine once a player has left the casino, by logging into a website over the Internet.

50. Shortly after discovering these infringing activities, plaintiffs put defendants on written notice that any purported licensing activity in connection with the Online Slots or Casino Slot Machines grossly exceeded their rights pursuant to the Merchandising License. Plaintiffs further informed defendants that such licensing activities constituted a material breach of the Merchandising License and a direct infringement of plaintiffs' rights in and to *The Lord of the Rings*.

51. Promptly after sending their breach and infringement notifications, plaintiffs engaged in extensive and detailed settlement discussions with defendants. These discussions were unsuccessful.

52. Not only do the Casino Slot Machines themselves fall outside the categories of rights granted to defendants, but defendants are additionally

authorizing, inciting and/or encouraging the purchaser or lessees of the Casino Slot Machines to provide gambling services to the general public in further infringement of plaintiffs' rights: the Casino Slot Machines are manufactured for no other purpose other than to facilitate these gambling services.

The Unlawful Downloadable-Only (Non-gambling) Video Games.

53. Plaintiffs are informed and believe, and based thereon allege that defendants have, without authorization from plaintiffs to do so, developed, licensed, sold, distributed and/or marketed a series of video games based on *The Lord of the Rings*, that do not require any tangible physical purchase, but can simply be acquired digitally by way of electronic download and/or accessed online, through a variety of digital platforms including without limitation in browsers, on social networks such as Facebook, through mobile phones and smart phone applications, internet-connected TVs and other portable devices such as iPads and tablets.

54. Plaintiffs are further informed and believe, and based thereon allege that defendants have, without authorization from plaintiffs to do so, developed, licensed, sold, distributed and/or marketed video games based on *The Hobbit* that are likewise accessible only online and/or through digital download.

55. Defendants do not have rights to such online and/or downloadable-only video games (the "Downloadable Games"). The grant of rights in the Merchandising License only gives Warner Bros. and Zaentz the right to create articles of tangible personal property. The Downloadable Games are not tangible merchandise. Defendants' exploitation of the Downloadable Games is unauthorized and an infringement of plaintiffs' valuable intellectual property rights.

The Unlawful Exploitation of Services Licensing, Service Marks and Trademarks.

56. The Merchandising License does not give Zaentz unlimited and infinite rights to exploit *The Lord of the Rings* or *The Hobbit* generally and in whatever manner it desires. To the contrary, Zaentz and Warner Bros. have only

1 limited merchandising rights and their trademark rights must strictly track their
2 substantive merchandising rights under the Merchandising License. In other words,
3 defendants can only register marks in the categories in which they have obtained
4 legitimate rights to exploit *The Lord of the Rings* and *The Hobbit* merchandising,
5 and must refrain from registering marks that preclude plaintiffs (the rightful owners
6 of the marks) from exercising their own superior rights in the marks made famous
7 by Professor Tolkien himself.

8 57. In spite of these restrictions, Zaentz has, slowly and consistently,
9 begun to expand its trademark program to encroach upon areas of merchandise
10 exploitation reserved to the plaintiffs, gradually eroding the defined contractual
11 boundaries of the rights grant. One example of such encroachment involves
12 Zaentz's registering trademarks and service marks for a wide variety of goods and
13 services which plainly have not been licensed to Zaentz to exploit under the
14 Merchandising License.

15 58. Additionally, despite express contractual language limiting defendants'
16 merchandising and trademark rights to "articles of tangible personal property,"
17 defendants contend that they have obtained rights in a broad array of goods and
18 services well beyond the limited grant contained in the Merchandising License. For
19 example, defendants have taken the position that their merchandising and trademark
20 rights extend to intangible items such as downloadable games and to services
21 licensing such as travel agencies, hotels, restaurants, theme parks, housing
22 developments and casino gambling.

23 59. Zaentz has even encroached on the one area of merchandising that has
24 expressly been carved out of all negotiations and agreements between the parties
25 from the very inception of the parties' relationship in the late 1960s — printed
26 publications. Zaentz has unlawfully registered as the owner of trademarks in
27 International Class 16 (paper goods and printed matter), with the effect thereby of
28 excluding Plaintiffs from registering their own legitimate trademarks in that class.

60. These are merely examples. Plaintiffs have taken all reasonable steps to appeal to defendants to curtail this unlawful exploitation without resort to litigation, including engaging in settlement discussions since the fall of 2010, all to no avail. Indeed, it was only upon plaintiffs' vehemently objecting to defendants' gambling activities that they asserted, not only that they fully intended to continue such activities, but also that they now claimed wide varieties of other categories of goods and services to which they had never been granted rights, including (without limitation) downloadable digital games and a variety of services. Defendants now suggest that they can and will continue to pursue similar extra-contractual trademark and service licensing activity in the future, both with respect to *The Lord of the Rings* and *The Hobbit*.

61. Plaintiffs are informed and believe, and based thereon allege, that in undertaking the conduct complained of in this action, defendants knowingly and intentionally violated plaintiffs' rights.

FIRST CLAIM FOR RELIEF

(Against all Defendants and Does 1-5 for Copyright Infringement)

62. Plaintiffs repeat and reallege, and incorporate herein by reference, the allegations contained in paragraphs 1 through 61, above, as though fully set forth herein.

63. Plaintiffs are the exclusive owners of the copyrights in and to *The Lord of the Rings* and *The Hobbit* (including the rights infringed by defendants). Plaintiffs have complied in all respects with the copyright laws of the United States, and all other laws governing copyright in *The Lord of the Rings* and *The Hobbit*.

64. Defendants have infringed plaintiffs' copyrights in *The Lord of the Rings* and *The Hobbit* by, without limitation, adapting, reproducing, distributing, exhibiting, and otherwise exploiting portions of *The Lord of the Rings* and *The Hobbit* in connection with the Online Slots, the Casino Slot Machine, and/or the Downloadable Games, and/or by authorizing, inducing, participating, causing or

1 materially contributing to the foregoing, with knowledge thereof.

2 65. At no time did defendants seek or obtain plaintiffs' permission or
3 consent to exploit *The Lord of the Rings* and/or *The Hobbit* in the Online Slots, the
4 Casino Slot Machine and/or the Downloadable Games.

5 66. Plaintiffs are informed and believe, and based thereon allege that
6 defendants' infringing acts were, and continue to be, committed willfully and
7 knowingly.

8 67. As a direct and proximate result of defendants' copyright infringement
9 as alleged above, plaintiffs have suffered and will continue to suffer injury and
10 damage in an amount to be determined according to proof, but which plaintiffs are
11 informed and believe, and based thereon allege exceeds \$80 million. Furthermore,
12 plaintiffs are informed and believe, and based thereon allege, that defendants have
13 received or will receive profits, gains or other benefits from their infringing
14 activities, all of which should be disgorged to plaintiffs. In the alternative,
15 plaintiffs reserve the right to seek statutory damages for defendants' intentional
16 infringement of their copyrights.

17 68. Defendants' infringement of plaintiffs' copyrights in *The Lord of the*
18 *Rings* and *The Hobbit* has caused and will continue to cause irreparable harm to
19 plaintiffs which cannot be fully compensated by monetary damages. Plaintiffs have
20 no adequate remedy at law. Plaintiffs are therefore entitled to injunctive relief
21 preventing defendants from infringing plaintiffs' copyrights in *The Lord of the*
22 *Rings* and *The Hobbit*, and recalling from the market all unauthorized uses of *The*
23 *Lord of the Rings* and *The Hobbit* that have been made or authorized by defendants
24 and/or their licensees.

25 69. Plaintiffs have incurred and will continue to incur attorneys' fees in
26 pursuing this action, which plaintiffs are entitled to recover from defendants
27 pursuant to 17 U.S.C. § 505.
28

1 Merchandising License by, among other things, exceeding the scope of the limited
 2 rights granted to them under the terms of the Merchandising License and engaging
 3 in numerous other wrongful acts and omissions as alleged hereinabove, all of which
 4 have deprived plaintiffs of the benefits of the Merchandising License.

5 76. As a direct and proximate result of Zaentz's and Warner Bros.
 6 Entertainment's acts of breach, plaintiffs have been damaged to date in a sum to be
 7 determined according to proof, but which plaintiffs are informed and believe, and
 8 on that basis allege exceeds \$80 million. Plaintiffs' damages will only increase if
 9 Zaentz and Warner Bros. Entertainment continue their acts of breach.

10 11 **THIRD CLAIM FOR RELIEF**

12 (Against all Defendants for Declaratory Judgment – Gambling Games and
 13 Downloadable Games Beyond Scope of Merchandising License)

14 77. Plaintiffs repeat and reallege, and incorporate herein by reference, the
 15 allegations contained in paragraphs 1 through 76, above, as though fully set forth
 16 herein.

17 78. By reason of the foregoing facts, an actual controversy has arisen
 18 between the parties as to whether the right to develop, produce, advertise, distribute
 19 and/or otherwise exploit (a) gambling games based on *The Lord of the Rings* and/or
 20 *The Hobbit* (such as the Online Slots and Casino Slot Machine) and (b) digital,
 21 downloadable-only video games based on *The Lord of the Rings* and *The Hobbit*,
 22 available for play only via the Internet or via download through digital platforms
 23 such as, for example, mobile apps, tablet apps or other similar digital distribution
 24 channels (such as the Downloadable Games) is beyond the scope of the
 25 merchandising rights granted to Warner Bros. and Zaentz pursuant to the terms of
 26 the Merchandising License and, therefore, whether such development, production,
 27 advertisement, distribution and/or other exploitation constitutes an infringement of
 28 plaintiffs' copyrights in *The Lord of the Rings* and *The Hobbit*. Plaintiffs contend,

1 and defendants dispute, that such development, production, advertisement,
 2 distribution and/or other exploitation is beyond the scope of the limited
 3 merchandising rights granted under the Merchandising License, and, therefore, such
 4 development, production, advertisement, distribution and/or other exploitation
 5 constitutes an infringement of plaintiffs' copyrights in and to *The Lord of the Rings*
 6 and *The Hobbit*.

7 79. In view of the foregoing, an actual controversy has arisen and exists
 8 between the plaintiffs and defendants within the meaning of the Declaratory
 9 Judgment Act, 28 U.S.C. § 2201. Accordingly, plaintiffs hereby request a
 10 declaration of this Court under the provisions of 28 U.S.C. § 2201, setting forth the
 11 respective rights and other legal relations of plaintiffs and defendants. In particular,
 12 plaintiffs request a declaration that:

- 13 a. the right to develop, produce, advertise, distribute and/or otherwise
 14 exploit gambling games based on *The Lord of the Rings* and/or *The*
 15 *Hobbit* (including, without limitation, the Online Slots and Casino Slot
 16 Machine), is beyond the scope of the rights granted to Warner Bros.
 17 and Zaentz pursuant to the Merchandising License and, therefore, that
 18 such development, production, advertisement, distribution and/or other
 19 exploitation constitutes an infringement of plaintiffs' copyrights in and
 20 to *The Lord of the Rings* and/or *The Hobbit*, entitling plaintiffs to
 21 damages as well as permanent injunctive relief; and
- 22 b. the right to develop, produce, advertise, distribute and/or otherwise
 23 exploit downloadable-only/online/digital video games based on *The*
 24 *Lord of the Rings* and/or *The Hobbit* (including, without limitation, the
 25 Downloadable Games), is beyond the scope of the rights granted to
 26 Warner Bros. and Zaentz pursuant to the Merchandising License and,
 27 therefore, that such development, production, advertisement,
 28 distribution and/or other exploitation constitutes an infringement of

1 plaintiffs' copyrights in and to *The Lord of the Rings* and/or *The*
 2 *Hobbit*, entitling plaintiffs to damages as well as permanent injunctive
 3 relief.

4 **FOURTH CLAIM FOR RELIEF**

5 (Against all Defendants for Declaratory Judgment – Extra-Contractual Trademark,
 6 Service Marks and Services Licensing Activity)

7 80. Plaintiffs repeat and reallege, and incorporate herein by reference, the
 8 allegations contained in paragraphs 1 through 79, above, as though fully set forth
 9 herein.

10 81. The Merchandising License makes clear that the trademark rights
 11 being licensed to Zaentz and/or Warner Bros. are strictly limited to trademarks used
 12 in connection with the manufacture and sale of those “articles of tangible personal
 13 property” — and only those articles — for which they have been given the right to
 14 manufacture and sell pursuant to the Merchandising License.

15 82. Without any authorization from plaintiffs to do so, defendants have
 16 used (and/or asserted the right to use), applied for and/or received trademark and
 17 service mark registrations which fall outside the rights granted under the
 18 Merchandising License.

19 83. Additionally, defendants contend that they have obtained rights in a
 20 broad array of goods and services well beyond the limited grant contained in the
 21 Merchandising License, and have registered trademarks and/or service marks
 22 and/or filed “intent to use” applications in such categories. Merely by way of
 23 example, defendants contend, and Plaintiffs dispute, that they have obtained
 24 substantive rights to license others to use the “Name and Subject Marks” (as
 25 defined in the Merchandising License) in association with services, and that
 26 defendants have broad merchandising rights in such goods and/or services as, for
 27 example, “hotels, restaurants, travel agencies, ringtones, online games and housing
 28 developments,” casino gambling and online/downloadable video games.

84. Plaintiffs contend, and defendants dispute, that such license, use, registration or attempted registration, or other exploitation of Plaintiffs' intellectual property rights is beyond the scope of the limited merchandising rights granted under the Merchandising License, and, therefore, such development, production, advertisement, distribution and/or other exploitation as described hereinabove constitutes an infringement of plaintiffs' intellectual property rights in and to *The Lord of the Rings* and/or *The Hobbit*.

85. By reason of the foregoing facts, an actual controversy has arisen between the parties as to:

- a. whether the right to license or exploit services in any categories, or the ability to register, use or exploit service marks in any categories (including without limitation hotels, restaurants, travel agencies, ringtones, online/downloadable games, housing developments, educational services, parties, festivals and cultural activities and/or amusement, theme parks and/or casino gambling) in connection with *The Lord of the Rings* and/or *The Hobbit*, is beyond the scope of the merchandising rights granted to Warner Bros. and/or Zaentz pursuant to the terms of the Merchandising License; and
- b. what is the scope and extent of defendants' rights to register and/or use *Lord of the Rings* and/or *Hobbit*-related trademarks.

86. In view of the foregoing, an actual controversy has arisen and exists between the plaintiffs and defendants within the meaning of the Declaratory Judgment Act, 28 U.S.C. § 2201. Accordingly, plaintiffs hereby request a declaration of this Court under the provisions of 28 U.S.C. § 2201, setting forth the respective rights and other legal relations of plaintiffs and Warner Bros. and Zaentz. In particular, plaintiffs request the following declarations:

- a. That defendants do not have the right to license or exploit any services in any categories, nor the ability to register, use or exploit service

marks in any categories in connection with *The Lord of the Rings* and/or *The Hobbit*, and, therefore, that defendants' conduct as described hereinabove constitutes an infringement of plaintiffs' valuable intellectual property rights in and to *The Lord of the Rings* and/or *The Hobbit*, entitling plaintiffs to damages as well as permanent injunctive relief; and

- b. Plaintiffs further desire a judicial determination of the parties' respective rights and obligations under the Merchandising License as they relate to the registration and/or use of *Lord of the Rings* and/or *Hobbit*-related marks.

87. A judicial declaration is necessary and appropriate at this time so that the parties may ascertain their respective rights and duties.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment as follows:

1. On the First Claim for Relief, for defendants' knowing and willful infringement of plaintiffs' copyrights in *The Lord of the Rings* and *The Hobbit*:
 - a. For damages according to proof but which plaintiffs are informed and believe exceeds \$80 million, or in the alternative, statutory damages;
 - b. For permanent injunctive relief to be determined by the Court at trial; and
 - c. For plaintiffs' reasonable attorneys' fees.
2. On the Second Claim for Relief, for Zaentz's and Warner Bros. Entertainment's breach of the Merchandising License:
 - a. For damages according to proof but which plaintiffs are informed and believe exceed \$80 million; and
 - b. For interest at the maximum legal rate.

3. On the Third Claim for Relief:
 - a. for a declaration of the parties' rights regarding the scope of the Merchandising License;
 - b. for a declaration that defendants' development, production, advertisement, distribution and/or other exploitation of gambling games based on *The Lord of the Rings* and/or *The Hobbit* (including, without limitation, the Online Slots and Casino Slot Machine), constitutes an infringement of plaintiffs' copyrights and to in *The Lord of The Rings* and/or *The Hobbit*; and
 - c. for a declaration that defendants' development, production, advertisement, distribution and/or other exploitation of downloadable-only/online/digital video games based on *The Lord of the Rings* and/or *The Hobbit* (including, without limitation, the Downloadable Games), constitutes an infringement of plaintiffs' copyrights in and to *The Lord of The Rings* and/or *The Hobbit*.
4. On the Fourth Claim for relief:
 - a. For a declaration that defendants do not have the right to license or exploit any services in any categories, nor the ability to register, use or exploit service marks in any categories in connection with *The Lord of the Rings* and/or *The Hobbit*; and
 - b. for a declaration of the parties' respective rights and obligations under the Merchandising License as they relate to the registration and/or use of *Lord of the Rings* and/or *Hobbit*-related trademarks and/or service marks and/or the ability to license or exploit services.
5. On All Claims for Relief:
 - a. For plaintiffs' costs of suit herein; and

\\\\\\

\\\\\\

1 b. For such other and further relief as the Court may deem just and
2 proper.

3
4 DATED: November 19, 2012

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

5
6 By: Bonnie E. Eskenazi
7 BONNIE E. ESKENAZI (SBN 119401)
8 Attorneys' for the Tolkien-related
9 Plaintiffs

10 REQUEST FOR JURY TRIAL

11 Plaintiffs hereby request a jury trial on all issues so triable.

12 DATED: November 19, 2012

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

13
14
15 By: Bonnie E. Eskenazi
16 BONNIE E. ESKENAZI (SBN 119401)
17 Attorneys for the Tolkien-related
18 Plaintiffs
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GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Audrey B. Collins and the assigned discovery Magistrate Judge is Stephen J. Hillman.

The case number on all documents filed with the Court should read as follows:

CV12- 9912 ABC (SHx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Bonnie E. Eskenazi (SBN 119401)
Elisabeth A. Moriarty (SBN 156569),
Ricardo P. Cestero (SBN 203230)
Greenberg Glusker Fields Claman & Machtinger LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, CA 90067
Tel.: (310) 553-3610; Fax: (310) 553-0687
beskenazi@greenbergglusker.com

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FOURTH AGE LIMITED, a United Kingdom corporation; PRISCILLA MARY ANNE REUEL TOLKIEN, as TRUSTEE OF THE TOLKIEN TRUST, a United Kingdom Charitable Trust; THE J.R.R. TOLKIEN ESTATE LIMITED, a United Kingdom corporation; HARPERCOLLINS PUBLISHERS, LTD., a United Kingdom corporation; UNWIN HYMAN LTD., a United Kingdom corporation; and GEORGE ALLEN & UNWIN (PUBLISHERS) LTD., a United Kingdom corporation,

PLAINTIFF(S)

v.

WARNER BROS. DIGITAL DISTRIBUTION, INC., a division of WARNER BROS. HOME ENTERTAINMENT, INC., a Delaware corporation; WARNER BROS. ENTERTAINMENT, INC., a Delaware corporation, as successor-in-interest to New Line Cinema Corp.; WARNER BROS. CONSUMER PRODUCTS, INC., a Delaware corporation; WARNER BROS. INTERACTIVE ENTERTAINMENT, INC., a division of WARNER BROS. HOME ENTERTAINMENT, INC.; NEW LINE PRODUCTIONS, INC., a California corporation, THE SAUL ZAENTZ COMPANY d/b/a Middle-earth Enterprises, a Delaware corporation; and DOES 1-10, inclusive,

DEFENDANT(S).

CASE NUMBER

CV 12 9912 - ABC(SH)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you



must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint
☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer
or motion must be served on the plaintiff's attorney, Bonnie E. Eskenazi, of Greenberg Glusker Fields Claman
& Machtinger, LLP, whose address is 1900 Avenue of the Stars, 21st Floor, Los Angeles, CA 90067. If you
fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also
must file your answer or motion with the court.

NOV 19 2012

Dated: _____

Clerk, U.S. District Court

By: *Manish Arora*
Deputy Clerk

(Seal of the Court)

*[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed
60 days by Rule 12(a)(3)].*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

FOURTH AGE LIMITED, a United Kingdom corporation;
PRISCILLA MARY ANNE REUEL TOLKIEN, as TRUSTEE
OF THE TOLKIEN TRUST, a United Kingdom Charitable Trust;
THE J.R.R. TOLKIEN ESTATE LIMITED, a United Kingdom
corporation; HARPERCOLLINS PUBLISHERS, LTD., a United
Kingdom corporation; UNWIN HYMAN LTD., a United
Kingdom corporation; and GEORGE ALLEN & UNWIN
(PUBLISHERS) LTD., a United Kingdom corporation

(b) County of Residence of First Listed Plaintiff United Kingdom

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bonnie E. Eskenazi (SBN 119401)
Elisabeth A. Moriarty (SBN 156569)
Ricardo P. Cestero (SBN 203230)
Greenberg Glusker Fields Claman & Machtinger LLP
1900 Avenue of the Stars, 21st Floor, Los Angeles, CA 90067
(310) 553-3610

DEFENDANTS

WARNER BROS. DIGITAL DISTRIBUTION, INC., a division
of WARNER BROS. HOME ENTERTAINMENT, INC., a
Delaware corporation; WARNER BROS. ENTERTAINMENT,
INC., a Delaware corporation, as successor-in-interest to New
Line Cinema Corp.; WARNER BROS. CONSUMER
PRODUCTS, INC., a Delaware corporation; WARNER BROS
INTERACTIVE ENTERTAINMENT, INC., a division of
WARNER BROS. HOME ENTERTAINMENT, INC.; NEW
LINE PRODUCTIONS, INC., a California corporation, THE
SAUL ZAENTZ COMPANY d/b/a Middle-earth Enterprises, a
Delaware corporation; and DOES 1-10, inclusive

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question
(U.S. Government Not a Party)
☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

COPY

CV 12 9912

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

17 U.S.C. § 101 et seq. (copyright infringement); 28 U.S.C. § 2201 (declaratory judgment)

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

 DEMAND \$ in excess of
 \$80,000,000; declaratory
 relief

 CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No
VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

November 19, 2012

SIGNATURE OF ATTORNEY OF RECORD

Barrie P. Keegan

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
United Kingdom - All Plaintiffs	FOURTH AGE LIMITED; PRISCILLA MARY ANNE REUEL TOLKIEN, as TRUSTEE OF THE TOLKIEN TRUST, THE J.R.R. TOLKIEN ESTATE LIMITED, HARPERCOLLINS PUBLISHERS, LTD., UNWIN HYMAN LTD.; and GEORGE ALLEN & UNWIN (PUBLISHERS) LTD.

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County - All Warner Bros. entities Alameda County - Saul Zaentz Company	WARNER BROS. DIGITAL DISTRIBUTION, INC., a division of WARNER BROS. HOME ENTERTAINMENT, INC.; WARNER BROS. ENTERTAINMENT, INC.; WARNER BROS. CONSUMER PRODUCTS, INC.; WARNER BROS. INTERACTIVE ENTERTAINMENT, INC.; WARNER BROS. HOME ENTERTAINMENT, INC.; NEW LINE PRODUCTIONS, INC.; THE SAUL ZAENTZ COMPANY

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Dennis Corcoran

Date *11-19-12*

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)